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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, BRIAN D

ART UNIT PAPER NUMBER

2661

DATE MAILED: 01/08/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,979

Applicant(s)

MCCLARY ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the amendment filed 10/9/02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14 & 18. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engdahl et al (5,500,853) in view of Shachar et al (5,668,807).

Regarding claims 1, 6, Engdahl discloses a machine-readable medium that provides instruction when executed by a set of processors (see 170 of figure 5; col. 14, lines 43-54) to perform operations comprising: a state machine (see figures 10B-10D and 276 of figure 34); receiving a first and second signal (DS1, DS2, DS3); simultaneously sync hunting the first signal with the first subset of the set of per-alignment state machines and the second signal with the second subset of the set of per-alignment state machine (see abstract; col. 5, lines 12-40; col. 24, lines 50-61). Engdahl does not specifically disclose initializing the state machine. However, Shachar discloses initializing the state machine (see figure 10 and col. 13, lines 4-6). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to initialize the state machine as taught by Shachar in the system of Engdahl because the state machine need to initialize in order for the machine to perform its functions.

Regarding claims 2, 7, Engdahl discloses the first signal (DS3) and the second signal (DS2 or DS1) have different formats.

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Regarding claims 3-5, 8-9, Engdahl discloses updating, buffering, and writing the states to the state machine (Engdahl uses of state counter for keeping track of the state of the state machine which is equivalent to updating the state of the state machine; see state counters 472, 478, 520 of figures 10B-10D; col. 52, lines 25-36). Shachar also discloses updating, buffering, and writing the state to the state machine (see col. 8, lines 45-64; col. 13, line 64).

Regarding claims 10-13, claims 10-13 are machine-readable medium claims that have substantially all the limitations of claims 1-5. Therefore, they are subject to the same rejection.

Regarding claims 14-34, claims 14-34 are apparatus claims that have substantially all the limitations of machine-readable medium claims 1-13. Therefore, they are subject to the same rejection.

Regarding claims 35-47, claims 35-47 are method claims that have substantially all the limitations of machine-readable medium claims 1-13. Therefore, they are subject to the same rejection.

Regarding claims 48-50, claims 48-50 are network device claims that have substantially all the limitations of the apparatus claims 14-19 in combination with machine-readable media claims 1-5, wherein the low bit rate signal format is DS1 and the high bit rate signal format is DS3. Therefore, they are subject to the same rejection.

Response to Arguments

3. Applicant's arguments with respect to claims 1-50 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Opderbeck et al (4,796,256), Petersen et al (5,963,564), and Keate et al (5,835,165) are all cited to show a sync hunting system include read/write buffer which are considered pertinent to the claimed invention..

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Brian Nguyen
1/5/03